



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

December 21, 2015

CERTIFIED RETURN RECEIPT
7014 2870 0001 4231 9326

Avraham Azoulay
Bromide Mining, LLC
80 Southwest 8th ST STE 2000
Miami, FL 33130

Subject: Proposed Assessment for State Notice of Violation No. MC-2015-42-06, Bromide Mining, LLC, Bromide Basin Mine, S/017/0031, Garfield County, Utah

Response Due By: 30 Days of Receipt

Dear Mr. Azoulay:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the assessment officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced cessation order. The cessation order was issued by Division inspector, Wayne Western, on October 19, 2015. Rule R647-7-103 et. seq. has been utilized to determine the proposed penalty of \$4,950.00. The enclosed worksheet outlines how the civil penalty was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this Cessation Order has been considered in determining the facts surrounding the violation and the amount of this penalty.

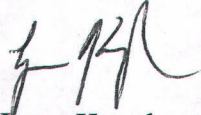
Under R647-7-106, there are two informal appeal options available to you. You may appeal the 'fact of the violation', the proposed civil penalty, or both. If you wish to informally appeal you should file a written request for an informal conference within thirty 30 days of receipt of this letter.



The informal conference will be conducted by a Division-appointed conference officer. The informal conference for the fact of the violation is distinct from the informal assessment conference regarding the proposed penalty. If you wish to review both the fact of the violation and proposed penalty assessment, you should file a written request for an assessment conference within thirty (30) days of receipt of this letter. In this case, the assessment conference will be scheduled immediately following the review of the fact of the violation.

If a timely request for review is not made, the fact of the violation will stand, the proposed penalty will become final, and will be due and payable within thirty (30) days of the date of this proposed assessment (by January 19, 2016). Please remit payment to the Division, mail c/o Sheri Sasaki.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lynn Kunzler', with a stylized flourish at the end.

Lynn Kunzler
Assessment Officer

LK: eb

Enclosure: Proposed assessment worksheet

cc: Sheri Sasaki, Accounting
Vickie Southwick, Exec. Sec.

P:\GROUPS\MINERALS\WP\M017-Garfield\S0170031-Bromidebasin\non-compliance\MC2015-42-06\passltr-6935-12182015.doc

WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

NOV / CO #: MC-2015-42-06

PERMIT: S/017/0031

COMPANY / MINE Bromide Basin, LLC. / Bromide Basin

ASSESSMENT DATE December 18, 2015

ASSESSMENT OFFICER Lynn Kunzler

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

- A. Are there previous violations, which are not pending or vacated, which fall three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>MN-2013-42-03</u>	<u>8/26/2013</u>	<u>1</u>
<u>MN-2015-42-03</u>	<u>9/28/2015</u>	<u>1</u>

TOTAL HISTORY POINTS 2

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event (A)
(assign points according to A or B)

A. EVENT VIOLATIONS (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent? Conducting activities outside of, and/or without appropriate approvals, and environmental harm.

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>POINT RANGE</u>	<u>PROBABILITY</u>	<u>POINT RANGE</u>
None	0	Likely	10-19
Unlikely	1-9	Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS: Mining activities occurred outside the permitted and bonded area in a high alpine ecosystem that is very sensitive to disturbances. Points assigned considering the event has occurred.

3. What is the extent of actual or potential damage?: ____.

ASSIGN DAMAGE POINTS (Range 0-25) 20

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

PROVIDE AN EXPLANATION OF POINTS: Mining activities outside the permitted area involved approximately 4 acres in a high alpine ecosystem. Damage points assigned at the 4/5 level of the range due to the environmentally sensitivity of the area and the acreage involved compared to the permitted acreage (5 acres).

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? ____
Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS ____

PROVIDE AN EXPLANATION OF POINTS: ____

TOTAL SERIOUSNESS POINTS (A or B) 40

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

LEVEL of NEGLIGENCE.

	Point Range
No Negligence (Was this an inadvertent violation which was unavoidable by the exercise of reasonable care?)	0
Negligence (was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care?)	1 - 15
Greater Degree of Fault (was this a failure to abate any violation or was economic gain realized by the permittee?)	16 - 30

STATE DEGREE OF NEGLIGENCE: Greater degree of fault.

ASSIGN NEGLIGENCE POINTS 23

PROVIDE AN EXPLANATION OF POINTS: Operator had been cited in 2013 for the same violation. The fact that he did not provide surety and started up to a year or more earlier by not permitting (very short mining season due to elevation), there was a high potential (if not actual) economic gain. Points assigned at the mid-point of the 'Greater Degree of Fault' range.

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures, or violations not abated at the time of assessment)

Has Violation Been Abated? No, Therefore good faith point are not assessed.

- A. **EASY ABATEMENT** (The operator had onsite, the resources necessary to achieve compliance of the violated standard within the permit area.)

Immediate Compliance (Immediately following the issuance of the NOV)	<u>Point Range</u> -11 to -20
Rapid Compliance (Permittee used diligence to abate the violation. Violation abated in less time than allotted.)	-1 to -10
Normal Compliance (Operator complied within the abatement period required, or, Operator requested an extension to abatement time)	0

- B. **DIFFICULT ABATEMENT** (The operator did not have the resources at hand to achieve compliance, or the submission of plans was required prior to physical activity to achieve compliance.)

Rapid Compliance (Permittee used diligence to abate the violation. Violation abated in less time than allotted.)	<u>Point Range</u> -11 to -20
Normal Compliance (Operator complied within the abatement period)	-1 to -10
Extended Compliance (Operator complied within the abatement period required, or, Operator requested an extension to abatement time) (Permittee took minimal actions for abatement to stay within the limits of the violation, or the plan submitted for abatement was incomplete.)	0

EASY OR DIFFICULT ABATEMENT? *Since plans are required, this would be considered a difficult abatement situation. The operator still has time to abate the violation and earn good faith points.*

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

V. ASSESSMENT SUMMARY (R647-7-103.3)

I.	TOTAL HISTORY POINTS	<u>2</u>
II.	TOTAL SERIOUSNESS POINTS	<u>40</u>
III.	TOTAL NEGLIGENCE POINTS	<u>23</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>65</u>
	TOTAL ASSESSED FINE	<u>\$4,950.00</u>